

2-10
01/11/01

MICKES
TUETH
KEENEY
COOPER
MOHAN &
JACKSTADT

P.C.

ATTORNEYS &
COUNSELORS

CATHLEEN S. BUMB
(636) 237-2600
FACSIMILE: (636) 237-2601

January 11, 2001

VIA CERTIFIED MAIL (Return Receipt Requested)

Mr. Larry Johnson
U.S. EPA Region V
77 W. Jackson Boulevard
Chicago, IL 60604

Re: N.L. Industries/Taracorp Superfund Site – Contest of
Waste In Allocation by *De Minimis* PRP

Dear Mr. Johnson:

MISSOURI

425 S. WOODS MILL RD.
SUITE 300
ST. LOUIS,
MISSOURI
63017
TELEPHONE
(636) 237-2600
FAX
(636) 237-2601

ILLINOIS

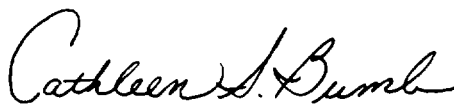
101 WEST VANDALIA
SUITE 325
EDWARDSVILLE,
ILLINOIS
62025
TELEPHONE
(618) 692-4120
FAX
(618) 692-4122

In anticipation of a potential settlement offer by EPA to the *de minimis* PRPs on the above referenced site, Dustin Ordway, the *de minimis* group counsel, advised me that EPA now is willing to review challenges made by *de minimis* parties regarding their assigned allocations. I represent Bob Keller Battery Warehouse, Inc. ("BKB"), which is a member of the *de minimis* PRP group. Although I and another attorney have previously submitted challenges on behalf of Bob Keller Battery Warehouse, made on July 15, 1992 and September 29, 1997, EPA did not respond. Therefore, I am again submitting the enclosed documents supporting a reduction in BKB's waste-in allocation for your consideration.

BKB is challenging the waste-in volume based on the fact that a large number of the batteries attributed to BKB were actually the property of Prestolite Batteries (a major PRP) under a scrap battery purchase/credit program. BKB asks that EPA consider BKB's challenge and revise the amount of waste-in attributed to BKB by deleting the batteries attributable to Prestolite. Based on the enormous cost of the remedy, the correction of the waste-in allocation is of utmost importance to my client.


I will be happy to answer any questions you may have or provide any additional information you deem necessary to support BKB's request for a reduction in its waste-in allocation.

Sincerely,


Cathleen S. Bumb

Encl.

cc w/enc.: Carl Brookshier
Dustin Ordway

EPA Region 5 Records Ctr.

257836

FILE COPY

PEPER, MARTIN, JENSEN, MAICHEL AND HETLAGE
ATTORNEYS AT LAW

2080 MCGREGOR BOULEVARD
THIRD FLOOR
FORT MYERS, FLORIDA 33901-3419
(941) 337-3850

720 WEST MAIN STREET
BELLEVILLE, ILLINOIS 62220-1515
(618) 234-9574

TWENTY-FOURTH FLOOR
720 OLIVE STREET
ST. LOUIS, MISSOURI 63101-2396

(314) 421-3850
TELECOPY: (314) 621-4834

1825 WEST MARION AVENUE
PUNTA GORDA, FLORIDA 33950-5295
(941) 837-1955

850 PARK SHORE DRIVE
SUITE 202
NAPLES, FLORIDA 33940-3567
(941) 261-6525

WRITER'S DIRECT DIAL NUMBER

(314) 444-6452

September 29, 1997

Via Federal Express

Sean Mulroney, Esq.
Office of the Regional Counsel
U.S. Environmental Protection Agency
Region V
200 West Adams Street - C-29-A
Chicago, Illinois 60604

RE: *NL Industries/TaraCorp Superfund Site*

Dear Mr. Mulroney:

I understand from Dustin Ordway, general counsel for the *de minimis* group for the referenced site, that he has been in contact with you regarding a potential settlement for the *de minimis* group. I represent Bob Keller Battery Warehouse, Inc. ("BKB"), a member of the *de minimis* group. Back on July 15, 1992, former counsel for BKB advised EPA that BKB was contesting the waste-in volume which had been attributed to BKB. Much of the contest was based on the fact that a large number of the batteries removed from BKB and taken to NL Industries site were actually the property of Prestolite Batteries (a major PRP) under a scrap battery purchase/credit program. BKB never received a response to that contest. Because of the potential for a settlement with the *de minimis* group, BKB asks that EPA now consider its contest and revise the amount of waste-in attributed to BKB to delete the batteries attributable to Prestolite.

PEPER, MARTIN, JENSEN, MAICHEL AND LETLAGE

Sean Mulroney, Esq.
September 29, 1997
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I am enclosing a copy of the July 15, 1992, correspondence for your easy reference. Based on the enormous cost of the remedy, the correction of the waste-in allocation is of utmost importance to my client. I will be happy to answer any questions you may have or provide any supporting documentation necessary to support BKB's request.

Sincerely,


Cathleen S. Bumb

Encl.

cc: Dustin Ordway
Carl Brookshier

THOMPSON & MITCHELL

ATTORNEYS AT LAW

ONE MERCANTILE CENTER
ST. LOUIS, MISSOURI 63101-1693

(314) 231-7676

FAX (314) 342-1717

CRYSTAL M. KENNEDY
(314) 342-1572

525 WEST MAIN STREET
BELLEVILLE, IL 62220-0760
(618) 277-4700

200 NORTH THIRD STREET
ST. CHARLES, MO 63301-2890
(314) 946-7717

700 14TH STREET, N.W.
WASHINGTON, D.C. 20005-2010
(202) 508-1000

July 15, 1992

VIA CERTIFIED MAIL

Mr. Steven Siegel
Office of Regional Counsel
U.S. EPA Region V
230 South Dearborn Street
Chicago, Illinois 60605

Re: NL Industries/Taracorp Site; Granite City,
Illinois (the "Site") - Bob Keller Battery
Warehouse, Inc.

Dear Mr. Siegel:

This letter is written on behalf of Bob Keller Battery Warehouse, Inc. ("Bob Keller"), currently listed as #59 on the NL Industries Incoming Transactions Generator Ranking Summary ("Generator Ranking Summary"), prepared by U.S. EPA with respect to the Site.

As we informed U.S. EPA in Bob Keller's response to the Information Request dated November 28, 1989, the vast majority of batteries attributed to Bob Keller by U.S. EPA in the Generator Ranking Summary were the property of Prestolite Batteries ("Prestolite"), which is also a PRP at the Site, at the time they were sent to NL Industries. Bob Keller provided U.S. EPA documents in its possession demonstrating that the batteries attributed to Bob Keller during the years 1976 through 1978 belonged to Prestolite; however, we have received no response from U.S. EPA concerning this matter. It is our understanding that the allocation to Bob Keller as set forth in the Generator Ranking Summary has not been reduced to reflect that Bob Keller was not the owner of batteries shipped to NL Industries during the years 1976 through at least 1978.

Bob Keller has been a member of each PRP Group that has been organized to negotiate with U.S. EPA with respect to this Site. Currently, Bob Keller is a member of the NL Industries/Taracorp Site De Minimis PRP Group ("De Minimis PRP Group"), which has been organized for the purpose of attempting to negotiate a de minimis settlement with U.S. EPA. As a member of the De Minimis PRP Group, Bob Keller recently received the NL Industries Transactional Database, Incoming Transactions List for Bob Keller Batteries Warehouse (pages 538-542) ("Incoming

Mr. Steven Siegel
July 15, 1992
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Transactions List") as well as the documentation utilized by U.S. EPA in preparing the Incoming Transactions List and, presumably, the Generator Ranking Summary. Now that we have had an opportunity to review the documentation allegedly supporting the allocation by U.S. EPA to Bob Keller, we wish to again inform you of the errors in the Generator Ranking Summary with respect to Bob Keller, provide additional supporting information with respect to Bob Keller's position that it has been substantially over allocated, and request that U.S. EPA take action to correct the errors and reduce the allocation of Bob Keller accordingly.

All of the batteries shipped to NL Industries during the years 1976 through at least 1978 (listed on pages 538 through 540 of the Incoming Transactions List) allocated to Bob Keller were the property of Prestolite under a scrap battery purchase/credit program (the "Program") initiated and administered by Prestolite. The Program was offered by Prestolite sales representatives to distributors as an incentive to the distributors to purchase new batteries from Prestolite.

Under the Program, Prestolite arranged for and directed the shipment of its distributors' scrap batteries to NL Industries on a two-for-one basis; that is, for every one new battery the distributor purchased from Prestolite, Prestolite authorized and directed the shipment of two scrap batteries for its account at an NL Industries smelter. Prestolite chose the transporter and instructed the distributor as to where the batteries were to be shipped. The batteries were shipped to NL Industries for the account of Prestolite and Prestolite received payments for the scrap value of the batteries directly from NL Industries. Prestolite's payment to the distributors for the scrap batteries was in the form of a credit to the distributor's account for the purchase of new batteries from Prestolite. The amount credited to Bob Keller's account was calculated by Prestolite on the basis of a formula prepared by Prestolite for purposes of the Program and was not the actual amount paid to Prestolite by NL Industries. Distributors received no payment from NL Industries for the scrap value of the batteries.

As appears from the Affidavits of Charles Brookshier, President of Bob Keller, and John O'Connell, a former Prestolite sales representative (Exhibits A and B), Bob Keller was a participant in the Prestolite Program as outlined above. Like other distributors involved in the Program, Bob Keller sold its scrap batteries to Prestolite in exchange for a credit on the amount payable to Prestolite for new batteries. Bob Keller was required to receive authorization and directions from Prestolite as to the amount of scrap batteries to be shipped, the transporter to utilize and the destination of the shipment of scrap batteries. The scrap batteries were shipped to NL Industries at the direction of and for the account of Prestolite

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and Prestolite received payment directly from NL Industries for the scrap value of the batteries. Thus, the ownership and control of the batteries which were processed at NL Industries pursuant to the Prestolite Program rested with Prestolite and not Bob Keller.

According to the documentation provided by U.S. EPA, the amount of Prestolite batteries currently allocated to Bob Keller is 1,010,740 pounds. The total weight of batteries allocated to Bob Keller as set forth in the Incoming Transactions List is 1,419,740 pounds.¹ Thus, the Prestolite batteries account for approximately 72% of the total weight allocated to Bob Keller. Quite obviously, this error in the allocation with respect to the Prestolite batteries is a matter of great concern to Bob Keller.

With respect to the alleged shipments of batteries subsequent to the year 1978, it appears that Bob Keller has been over allocated by at least 160,000 pounds. The Incoming Transactions List at page 541 indicates that four separate shipments of batteries were sent to NL Industries in August, September and October of 1980 totaling 160,000 pounds. In reviewing the documents provided by U.S. EPA, however, no evidence of these alleged shipments exist. Bob Keller has likewise been unable to locate any records regarding shipments of batteries to the Site during the year 1980. Absent credible supporting documentation for the alleged shipments of batteries to NL Industries by Bob Keller during the year 1980, Bob Keller objects to the allocation of 160,000 pounds as it currently stands.

For your general information and benefit, Exhibit C is enclosed herewith to provide you with a summary of the documentation supplied by U.S. EPA concerning the shipments of batteries attributed to Bob Keller and the errors in connection therewith. The chart is divided into two parts; Part I provides information with respect to the Prestolite batteries and Part II is with respect to those shipments allegedly attributable to Bob Keller. Column 1 indicates the date of the alleged shipment

¹This is the total of all numbers listed in the "Quantity" column of the Incoming Transactions List. The Generator Ranking Summary, however, lists Bob Keller as having 1,420,040 pounds of material at the site. We have been unable to determine any basis for the increase by 300 pounds from the Incoming Transactions List to the Generator Ranking Summary, so it is presumed to be a mathematical error by U.S. EPA. In addition, our review of the documents revealed that there were several errors with respect to the quantities listed for the Prestolite batteries resulting in an over allocation of 110,470 pounds on the shipments during the years 1976 through 1978.

Mr. Steven Siegel
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according to the Incoming Transactions List, Column 2 indicates the quantity (in pounds) of batteries listed in the Incoming Transactions List for each alleged shipment, Column 3 indicates the corresponding Credit Memo issued by Prestolite for each alleged shipment², Column 4 indicates whether the shipment as alleged by U.S. EPA was supported by the documentation provided, and Column 5 indicates the amount of over (+) or under (-) allocation for each alleged shipment.

In sum, while Bob Keller has been allocated 1,420,040 pounds of material at the Site, the actual total documented weight attributable to Bob Keller according to the documents supplied by U.S. EPA is 249,000 pounds, a difference of 1,171,040 pounds. In light of the fact that U.S. EPA estimates the remedy cost to be at least \$32 Million, Bob Keller firmly believes that the correction of the errors in its allocation is imperative for it to participate in any *de minimis* settlement that may be reached between U.S. EPA and the *De Minimis* PRP Group. The financial resources of Bob Keller are such that it would simply be impossible for Bob Keller to participate on the basis of the current erroneous allocation in any settlement that may be achieved.

While we recognize that U.S. EPA has many important issues to address with respect to the Site, Bob Keller implores you to evaluate the attached affidavits and documents and take action to adjust the allocation to Bob Keller accordingly. Bob Keller has cooperated in good faith with U.S. EPA and has seized every opportunity to negotiate with U.S. EPA with respect to this matter. It would frustrate the goals of CERCLA for U.S. EPA to continue to ignore the good faith and meritorious defenses of a cooperating PRP; one who is making a good faith attempt to negotiate a settlement with U.S. EPA consistent with its

² Prestolite issued a Credit Memo to Bob Keller reflecting the amount of credit due Bob Keller for each shipment of batteries purchased by Prestolite. The Credit Memo stated the exact amount (in pounds) of batteries received for its account by NL Industries. With the exception of one shipment, all shipments of batteries referenced in the Incoming Transactions List during the years 1976 through 1978 were supported by a Credit Memo indicating the exact amount of batteries received by NL Industries. In several instances, it appears that U.S. EPA utilized the estimated pounds of batteries referenced in the Bill Of Lading prepared prior to shipment rather than the actual amount as referenced in the Credit Memos issued by Prestolite. Further, you will note that there are no corresponding Credit Memos with respect to Section II of the chart since the alleged shipments during the years 1981 - 1982 most likely would not have been pursuant to the Prestolite Program.

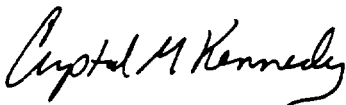
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documented volumetric contribution to the total amount of materials shipped to the Site.

To this end, we would be happy to meet with you and/or other representatives of U.S. EPA to further discuss the enclosed materials and answer any questions you may have. Your prompt attention to this matter is appreciated.

Very truly yours,

THOMPSON & MITCHELL

By 
Crystal M. Kennedy

CMK;pb

Enclosures

cc: Charles and Rosalie Brookshier
Thea Dunmire, Counsel for NL Industries/Taracorp Site
De Minimis PRP Group

bcc: William R. Weber

STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

AFFIDAVIT OF CHARLES BROOKSHIER

COMES NOW, Charles Brookshier, a competent witness and,
being duly sworn, states under oath:

1. I am currently, and have been since the year 1976,
the President of Bob Keller Battery Warehouse, Inc. ("Bob Keller
Battery Warehouse"). In that position, I have personal knowledge
of the business dealings of Bob Keller Battery Warehouse and,
specifically, the facts enumerated herein.

2. Sometime during the year 1976, I was approached by
Gordon Crumbliss, a sales representative of Prestolite Batteries
("Prestolite") concerning a program offered by Prestolite wherein
it would purchase two scrap batteries from Bob Keller Warehouse
for every one new battery Bob Keller Battery Warehouse purchased
from Prestolite.

3. Bob Keller Battery Warehouse participated in the
program offered by Prestolite ("Prestolite Program") during the
years 1976 through at least 1978.

4. As a participant in the Prestolite Program, Bob
Keller Battery Warehouse was required to notify Prestolite of the
number and/or approximate weight of scrap batteries in its
possession in order for Prestolite to determine whether the
amount of scrap batteries was within the allowable quota (two
scrap batteries for every one new battery purchased by Bob Keller
Battery Warehouse). I personally did this by notifying Gordon
Crumbliss, the Prestolite sales representative.

5. Gordon Crumbliss then informed me whether or not Prestolite authorized the purchase of the scrap batteries from Bob Keller Battery Warehouse. In the event the purchase was authorized by Prestolite, Gordon Crumbliss informed me of the transporter to utilize (either J. P. Barlow & Co. or P & G Trucking Co.) and the location to which the batteries were to be shipped, which was always to NL Industries in Granite City, Illinois. On occasion, the authorization and shipping instructions from Prestolite would be confirmed in writing (See Attachment 1); however, in most instances it was conveyed to me verbally by Gordon Crumbliss.

6. The scrap batteries were shipped from Bob Keller Battery Warehouse to NL Industries in Granite City, Illinois for the account of Prestolite (See Bill of Lading, Attachment 2). Bob Keller Battery Warehouse did not determine where or by whom to ship these scrap batteries and received no payment from NL Industries for the shipments of scrap batteries under the Prestolite Program.

7. Freight charges incurred for the shipments of scrap batteries from Bob Keller Battery Warehouse to NL Industries under the Prestolite Program were not the responsibility of Bob Keller Battery Warehouse, and to the best of my knowledge, were paid by Prestolite.

8. Prestolite paid for the scrap batteries by applying a credit to the account of Bob Keller Battery Warehouse on its purchases of new batteries from Prestolite. (See Credit Memorandum, Attachment 3).

9. Based upon my review of documents provided to Bob Keller Battery Warehouse by U.S. EPA, all shipments of scrap batteries to NL Industries from Bob Keller Battery Warehouse during the years 1976 through at least 1978 were made at the direction of and for the account of Prestolite under the Prestolite Program outlined above.

Further, affiant sayeth not.

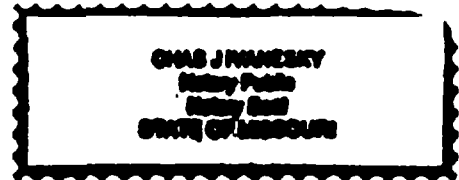

Charles Brookshier

Subscribed and sworn to before me this 13 day of June, 1992.


Notary Public

My Commission Expires:

**CHAS. J. IVANESKY
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES MAR. 3, 1996
JEFFERSON COUNTY**



SCRAP BATTERY RETURN
AUTHORIZATION

CUSTOMER Boo Keller Battery Warehouse, Inc.

DATE 12-16-77

2671 Washington Blvd.

St. Louis, Mo. 63101

PHONE

314-652-1444

CONTACT _____

ANNUAL BATTERY PURCHASES _____

ANNUAL SCRAP RETURN _____

NL SHELTER LOCATION Granite City, Illinois

CARRIER J. P. Earlow & Co.

REMARKS 30,000 lbs.

W. Crumbliss
Salesman

PRICE NOTES _____

SALES APPROVAL _____

DATE _____

Final - NOT NEGOTIABLE

STRAIGHT BILL OF LADING - SHORT FORM

Barlowe Inc.
Carrier's No. _____

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading,
at 2671 Washington 9-30 1977 From Portland Battery Co

the property herein shown in apparent order, except as noted (contents and condition of contents of packages unknown), marked, counted, and certified as follows: which shall be for (the carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) subject to the usual place of delivery at said destination, if the carrier is to deliver to another carrier on the route to said destination. It is mutually agreed, as in every carrier of all or any of said property over all or any portion of said route to the destination, as well as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be performed in accordance with all the terms and conditions of the Uniform Domestic Freight Bill of Lading, and that the Uniform Freight Classification is in effect on the date hereof. If this is a bill of lading for a full-carload shipment, or if it is a bill of lading for a less-than-carload shipment, the carrier hereby certifies that he is familiar with all the terms and conditions of the said bill of lading, including those on the back thereof, set forth in the classification or tariff which governs the transportation of this shipment, and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his agents.

Consigned to St. L. Products

Destination _____ State _____ Zip _____ County _____
Delivery Address Grand City
(* To be filled in only when shipper desires the governing tariff provided for delivery thereof.)

Route _____

Delivering Carrier _____ Car or Vehicle Initials _____ No. _____

No. Packages	Kind of Package, Description of Articles, Special Marks, and Exceptions	WEIGHT (Subject to Correction)	Class or Rate	Check Column	Subject to Section 7 of Conditions of applicable bill of lading. If this shipment is to be delivered to the consignee without recourse to the consignor, the consignor shall sign the following statement: "The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges."
	<u>One truck of Lead Acid</u> <u>Batteries</u>	<u>50.000</u>			(Signature of Consignor) _____ If charges are to be prepaid, write or stamp here, "To be prepaid." Received \$ _____ to apply in payment of the charges on the property described below. Agent or Cashier _____ Per _____ (The signature here acknowledges that the amount prepaid.) Charges Advanced: \$ _____ Shipper's liability in lieu of advance is a part of bill of lading approved by the Interstate Commerce Commission.

If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is carrier's or shipper's weight.
NOTE - Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property. The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____

The Bill of Lading used for this shipment conforms to the specifications set forth in the box maker's certificate thereon and all other requirements of the Commission's Freight Classification.

Shipper, Per J. Christ Agent, Per _____

Permanent post-office address of shipper, _____

VINCENNES

CREDIT MEMORANDUM

1/19/78

T1-2008

ISSUED BY OUR PLANT AT

DATE

CREDIT NO

OUR ORDER NO.	OUR INVOICE NO.	OUR RECEIVAL NO.	AUTHORIZED BY	YOUR ORDER NO.	YOUR DEBIT NO.	YOUR DEBIT DATE
---------------	-----------------	------------------	---------------	----------------	----------------	-----------------

TO

BOR KELLER BATTERY WHSE
2671 WASHINGTON BLVD
ST LOUIS MO 63103

CODE

0165401012

ACCOUNT NO.	PART NO.	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
15-127		SCRAP BATTERIES	40680#	10.69 CWT	4348.09
TO ISSUE CREDIT FOR SCRAP BATTERIES SHIPPED TO SMELTER					

DUPLICATE

STATE OF MISSOURI)
)
COUNTY OF ST LOUIS) SS.

AFFIDAVIT OF JOHN V. O'CONNELL

COMES NOW, John V. O'Connell, a competent witness and,
being duly sworn, states under oath:

1. I was employed as a sales representative by
Prestolite Battery Division ("Prestolite") from 1975 through
1980. In that position, I was based in St. Louis and made
several personal visits to one of Prestolite's distributors, Bob
Keller Battery Warehouse, Inc., ("Bob Keller Battery Warehouse")
located at 2671 Washington Blvd., St. Louis, Missouri.

2. In my position as sales representative I reported
to Gordon Crumbliss, another sales representative with Prestolite
for the St. Louis region.

3. During the course of my visits with representatives
of Bob Keller Battery Warehouse, I presented and explained
Prestolite programs and promotions for the purpose of marketing
Prestolite batteries.

4. In the mid-1970's, Prestolite initiated a program
for its distributors whereby Prestolite purchased scrap batteries
from its distributors, arranged for the shipment of the scrap
batteries to NL Industries smelters and received payment directly
from the smelter for the scrap batteries. Payment by Prestolite
for the scrap batteries purchased from its distributors was in
the form of a credit to the distributor's accounts on their
purchases of new batteries from Prestolite.

EXHIBIT B

5. To the best of my knowledge and recollection, during the time period 1976 through at least 1978, the purchase/credit arrangement was on the basis of two (2) scrap batteries for every one (1) new battery purchased by the distributor.

6. The Prestolite program as described above was explained and offered to Bob Keller Battery Warehouse by me and/or Gordon Crumbliss, or both. Bob Keller Battery Warehouse participated in this program as a Prestolite distributor during approximately the years 1976 through at least 1978.

7. Under this program, Bob Keller Battery Warehouse was required to notify Prestolite of the number and/or approximate weight of scrap batteries in its possession. In the event Bob Keller Battery Warehouse did not exceed its allowable quota (two scrap batteries for every one new battery purchased from Prestolite), Prestolite authorized and directed the shipment of the scrap batteries to the NL Industries smelter location. Prestolite directed Bob Keller Battery Warehouse as to where the scrap batteries were to be sent.

8. Freight charges incurred in the transport of scrap batteries from Bob Keller Battery Warehouse to the NL Industries smelter location were not the responsibility of Bob Keller Warehouse and, to the best of my knowledge, were paid by Prestolite.

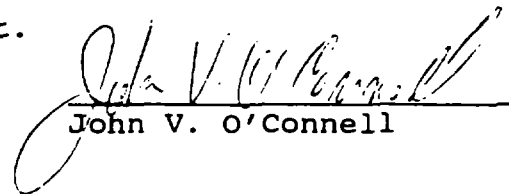
9. The scrap batteries were shipped from Bob Keller Battery Warehouse to the NL Industries smelter location in

Granite City, Illinois at the direction of and for the account of Prestolite.

10. To my knowledge, Prestolite received payments directly from NL Industries for the scrap batteries shipped to NL Industries from Bob Keller Battery Warehouse.

11. Thereafter, Prestolite applied a credit to the account of Bob Keller Battery Warehouse for the purchase of new batteries from Prestolite.

Further, Affiant sayeth not.


John V. O'Connell

Subscribed and sworn to before me this 22 day of June, 1992.


Notary Public

My commission expires: **CHERIAL REKART, NOTARY PUBLIC
ST. LOUIS COUNTY, STATE OF MISSOURI
MY COMMISSION EXPIRES 4/1/93**

EXHIBIT C

7/15/92

BOB KELLER BATTERY WAREHOUSE
EPA DOCUMENT SUMMARY

I. Prestolite Batteries

<u>EPA DATE</u>	<u>EPA QUANTITY</u>	<u>CORR. CREDIT MEMO</u>	<u>SHIPMENT DOCUMENTED?</u>	<u>EPA OVER(+) / UNDER(-) ALLOCATION</u>
11/30/76	41,620	T12-2074	Yes	None
12/01/76	40,000		Yes; but no Credit Memo	None
12/01/76	70,000		No; duplicate of 11/30 and 12/1	+70,000
01/25/77	37,790	T2-2044	Yes; however entry for 1/25/78 is a duplicate of this entry	None
03/24/77	45,590	T3-2038	Yes	None
03/25/77	44,000	T4-2030	Yes; however quantity in error	- 7,420
05/04/77	48,000	T6-2014	Yes; however quantity in error	- 4,080
06/01/77	56,000	T7-2025	Yes; however quantity in error	+12,630
07/19/77	55,000	T8-2020	Yes; however quantity in error	+ 3,120
08/16/77	40,000	T9-2026	Yes; however quantity in error	- 7,620

<u>EPA DATE</u>	<u>EPA QUANTITY</u>	<u>CORR. CREDIT MEMO</u>	<u>SHIPMENT DOCUMENTED?</u>	<u>EPA OVER(+) / UNDER(-) ALLOCATION</u>
08/30/77	50,000	T9-2026	Yes; however quantity in error	+ 1,080
09/30/77	50,000	T9-2055	Yes; however quantity in error	- 9,000
11/01/77	56,600	T11-2036	Yes	None
11/01/77	4,500	T11-2036	Yes	None
11/10/77	44,000	T12-2028	Yes; however quantity in error	- 8,240
12/16/77	30,000		No; duplicate of 1/19/78 entry	+30,000
01/19/78	40,680	T1-2008	Yes	None
01/25/78	30,000		No; a duplicate of 1/25/77	+30,000
03/22/78	41,640	T5-2021	Yes	None
04/07/78	43,360	T5-2021	Yes	None
04/24/78	33,180	T5-2021	Yes	None
05/01/78	40,640	T5-2021	Yes	None
09/06/78	18,380	T11-2009	Yes	None
09/08/78	15,540	T11-2009	Yes	None

09/27/78	16,800	T11-2009	Yes	None
09/28/78	<u>17,420</u>	T11-2009	Yes	<u>None</u>
Subtotal	1,010,740		Subtotal	+110,470 (over allocation)

II. Bob Keller Battery Warehouse

<u>EPA DATE</u>	<u>EPA QUANTITY</u>	<u>SHIPMENT DOCUMENTED?</u>	<u>EPA OVER(+) / UNDER(-) ALLOCATION</u>
08/20/80	20 tons	No	+40,000
09/18/80	20 tons	No	+40,000
10/23/80	20 tons	No	+40,000
10/28/80	20 tons	No	+40,000
03/27/81	47,880	Yes	None
03/27/81	1,800	Yes	None
04/21/81	29,620	Yes	None
06/03/81	41,520	Yes	None
06/24/81	40,560	Yes	None
12/07/82	47,620	Yes	None
12/28/82	<u>40,000</u>	Yes	<u>None</u>
Subtotal	409,000		Subtotal +160,000 (over allocation)
TOTAL	1,419,740		TOTAL +270,470 (over allocation)

SUMMARY

1. Deviation of Total (1,419,740) from EPA Generator Ranking Summary (1,420,040) = 300 lbs.
2. Total Quantity Documented 1976-1982. (1,419,740-270,470) = 1,149,270 lbs.
3. Total Quantity of Prestolite Batteries 1976-1978. (1,419,740-409,000) = 1,010,740 lbs.
- Total Documented Quantity of Prestolite Batteries 1976-1978. (1,010,740-110,470) = 900,270 lbs.
4. Total Quantity Allocated by EPA to BKBW 1980-1982. (1,419,470-1,010,740) = 409,000 lbs.
- Total Documented Quantity to BKBW 1980-1982. (409,000-160,000) = 249,000 lbs.